

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT**

STATE OF FLORIDA; FLORIDA  
AGENCY FOR HEALTHCARE  
ADMINISTRATION; DEPARTMENT  
OF MANAGEMENT SERVICES,

*Plaintiffs-Appellees,*

CATHOLIC MEDICAL ASSOCIATION

*Plaintiff-Appellee-Cross-Appellant,*

v.

DEPARTMENT OF HEALTH AND  
HUMAN SERVICES, et al.,

*Defendants-Appellants-Cross-  
Appellees*

No. 24-12826

**UNOPPOSED MOTION FOR EXTENSION**

Appellees State of Florida, Florida Department of Management Services, and Florida Agency for Health Care Administration, and appellants-cross-appellees U.S. Department of Health and Human Services (HHS), Centers for Medicare and Medicaid Services, Secretary of Health and Human Services, Administrator of Centers for Medicare & Medicaid Services, and Director of the Office for Civil Rights, file this motion for an extension of the briefing schedule. The principal brief of appellees and cross-

appellants is due on March 7, 2025. Pursuant to 11th Cir. R. 31-2(d), a 60-day extension of this briefing deadline until May 6, 2025, is justified by intervening executive orders and to allow new leadership at HHS enough time to evaluate how to proceed with respect to this interlocutory appeal, which may obviate the need for further briefing and conserve resources. In support of this motion, appellees and appellants-cross-appellees state as follows:<sup>1</sup>

1. This appeal concerns an HHS final rule interpreting Section 1557 of the Affordable Care Act, which prohibits discriminating on the basis of sex by incorporating the ground prohibited by Title IX of the Education Amendments of 1972. 42 U.S.C. § 18116(a) (incorporating 20 U.S.C. § 1681(a)).

2. In the Section 1557 final rule, HHS concluded that Section 1557 covers discrimination on the basis of “gender identity,” relying upon *Bostock v. Clayton County*, 590 U.S. 644 (2020). *See Nondiscrimination in Health Programs and Activities*, 89 Fed. Reg. 37,522, 37,574 (May 6, 2024) (Rule); 45 C.F.R. § 92.101(a)(2)(iv); *see* ECF 26, HHS Br. 2, 6–7, 14 (describing the rule and relying upon *Bostock*). HHS also promulgated several other

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<sup>1</sup> Cross-appellant Catholic Medical Association takes no position on this motion or on the circumstances cited to justify an extension.

provisions relating to “gender identity,” including rules relating to “gender affirming care” and rules requiring covered entities to allow access to sex-separated facilities consistent with gender identity when a denial of access would cause an individual more the *de minimis* harm. ECF 26, HHS Br. 6–8.

3. On July 3, 2024, the district court, U.S. District Judge William Jung, preliminarily enjoined and stayed the HHS rule in relevant part within the State of Florida, and as applied to Florida, its agencies, instrumentalities, and contractors, but denied preliminary equitable relief to the cross-appellee Catholic Medical Association and its members. *Florida v. HHS*, 739 F. Supp. 3d 1091, 1116–17 (M.D. Fla. 2024).

4. HHS thereafter filed this interlocutory appeal of the order, and Catholic Medical Association filed a cross-appeal.

5. On January 2, 2025, HHS filed its principal brief.

6. On January 7, 2025, appellees and cross-appellant obtained a first 30-day extension of the time to file their principal brief over the phone. The principal brief of appellees and cross-appellant is currently due on March 7, 2025.

7. Pursuant to 11th Cir. R. 31-2(d), a second 60-day extension is justified by intervening “extraordinary circumstances” that were not

foreseeable when appellees and cross-appellant sought their first extension request.

8. Soon after President Donald J. Trump took office on January 20, 2025, he signed Executive Order 14,168, entitled *Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government*. In that order, the President announced that “the prior Administration argued that the Supreme Court’s decision in *Bostock v. Clayton County* (2020), which addressed Title VII of the Civil Rights Act of 1964, requires gender identity-based access to single-sex spaces . . . This position is legally untenable and has harmed women.” 90 Fed. Reg. 8,615, 8,616 (Jan. 30, 2025). President Trump also later signed Executive Order 14,187, entitled *Protecting Children from Chemical and Surgical Mutilation*. In that order, President Trump directed HHS to “take all appropriate actions to end the chemical and surgical mutilation of children, including regulatory and sub-regulatory actions, which may involve . . . section 1557” of the Affordable Care Act. 90 Fed. Reg. 8,771, 8,772 (Feb. 3, 2025).

10. Due to the recent change in administration on January 20, 2025, the Department of Justice and HHS are now under new leadership. New agency officials are still in the process of onboarding and familiarizing themselves with all of the issues presented by pending litigation. To allow

new officials sufficient time to become familiar with the issues in these cases and determine how they wish to proceed and to conserve party resources, the Movants respectfully request a 60-day extension.

Dated: February 18, 2025

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Respectfully submitted,

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### **CERTIFICATE OF COMPLIANCE**

Pursuant to Fed. R. App. P. 32(g), I hereby certify that this motion complies with the requirements of Fed. R. App. P. 27(d)(1)(E) because it has been prepared in 14-point Georgia, a proportionally spaced font, and that it complies with the type-volume limitation of Fed. R. App. P. 27(d)(2)(A) because it contains 722 words, according to the count of Microsoft Word.

Dated: February 18, 2025

/s/ James R. Conde  
James R. Conde

### **CERTIFICATE OF SERVICE**

I hereby certify that on February 18, 2025, I electronically filed the foregoing document with the Clerk of this Court by using the CM/ECF system, which will serve all parties automatically.

Dated: February 18, 2025

/s/ James R. Conde  
James R. Conde